

3/21/2008

1 Kip Evan Steinberg (SBN 096084)  
 2 LAW OFFICES OF KIP EVAN STEINBERG  
 3 Courthouse Square  
 4 1000 Fourth Street, Suite 600  
 San Rafael, CA 94901  
 Telephone: 415-453-2855  
 Facsimile: 415-456-1921  
[kip@steinberg-immigration-law.com](mailto:kip@steinberg-immigration-law.com)

6 **Attorney for Plaintiffs MIRSAD HAJRO and JAMES R. MAYOCK**

8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

12 MIRSAD HAJRO,

13 Plaintiff,

14 v.

15 ALBERTO GONZALES, United States  
 16 Attorney General, et al.,

18 Defendants

19 MIRSAD HAJRO, JAMES R. MAYOCK

20 Plaintiffs,

21 v.  
 22 UNITED STATES CITIZENSHIP  
 AND IMMIGRATION SERVICES, et al.,

23 Defendants

}) **No. C 06-7827 JW**

}) **PLAINTIFF'S NOTICE  
 OF RELATED CASES**

}) **No. C 08-1350 RMW**

24 Plaintiff Mirsad Hajro hereby files notice pursuant to Civil Local Rule 3-  
 25 12 that the newly assigned case, *Hajro et al v. USCIS et al.*, No. C 08-1350  
 26 RMW and *Hajro v. Gonzales, et al.*, No. C 06-7827 JW are related, and the new  
 27

28 *Hajro v. Gonzales C 06-7827 JW/Hajro v. USCIS C 08-1350 RMW*  
 Notice of Related Cases

1 matter, which has been assigned to the Honorable Ronald M. Whyte, United  
2 States District Court Judge, may be reassigned to the Honorable James Ware,  
3 United States District Court Judge, who presided over the earlier-filed matter.

4 Plaintiff applied for naturalization on November 6, 2003 under 8 U.S.C. §  
5 1430(a) and was interviewed on March 4, 2004 at the USCIS Field Office in San  
6 Jose, California. Plaintiff made several inquiries about the status of his  
7 citizenship application and was informed each time that his application could  
8 not be acted upon because the FBI background name check was pending.

9 After waiting more than three years for his naturalization application to  
10 be processed, Plaintiff filed a Petition For Hearing On Naturalization  
11 Application Under 8 U.S.C. §1447(b) *in pro per* on December 21, 2006. The  
12 case was assigned to the Honorable James Ware. (*Hajro v. Gonzales* C 06-7827  
13 JW). On or about August 24, 2007, the parties filed a joint “Stipulation For  
14 Remand and Dismissal” stating that “the necessary name check and FBI  
15 background check investigations have been completed, and that USCIS is now  
16 ready to complete the adjudication and issue a decision on the Plaintiff’s  
17 application for Naturalization.” Pursuant to this stipulation, Judge Ware  
18 dismissed the case without prejudice on August 30, 2007.

19 Plaintiff’s application for naturalization was then denied on October 9,  
20 2007 based on alleged evidence in his alien registration file. Plaintiff filed an  
21 appeal of this decision under 8 U.S.C. §1447(a) on or about November 9, 2007  
22 and requested a hearing . That hearing has not yet taken place.

23 Plaintiff filed a Freedom Of Information Act (“FOIA”) request for a copy of  
24 his alien registration file on November 19, 2007. Plaintiff specifically  
25 requested expedited processing pursuant to a FOIA Settlement Agreement  
26 entered into between James Mayock and the Department of Justice. Plaintiff  
27

1 is a direct beneficiary of this Settlement Agreement. Under the terms of the  
2 Settlement Agreement:

3  
4 A requestor who demonstrates, consistent with applicable  
5 guidances and law, an “exceptional need or urgency”, shall have  
6 his/her request processed out of turn on an “expedited” basis...  
7 FOIA offices are to grant such treatment when the requestor  
demonstrates that... (b) *substantial due process rights of the  
requestor would be impaired by the failure to process immediately,  
and the information sought is not otherwise available.*

8 A request for expedited processing which demonstrates either of  
9 the above circumstances shall be processed immediately.  
(Emphasis added)

10 The information sought by Plaintiff is not otherwise available because  
11 there is no discovery in immigration proceedings. Defendants’ processing time  
12 for FOIA requests is currently up to 18 months.

13 Plaintiff’s FOIA request was accompanied by a letter from his lawyer  
14 which explained that Plaintiff needed a copy of the file to see the alleged  
15 evidence upon which the denial of citizenship was based and prepare his  
16 appeal. On November 19, 2007 Defendants issued a letter denying Plaintiff’s  
17 request for expedited processing. Plaintiff’s substantial due process rights  
18 will be irreparably harmed because without a copy of the file, Plaintiff’s  
19 attorney cannot prepare his citizenship appeal adequately. Moreover,  
20 Defendants’ delay in producing the file is a violation of the Settlement  
21 Agreement. Plaintiff has therefore filed a second lawsuit to remedy this harm.

22 These two actions concern substantially the same parties i.e. Mirsad  
23 Hajro and the United States Attorney General plus officials of the United States  
24 Citizenship and Immigration Services. Both actions are related to the same  
25 core issue, which is Plaintiff Mirsad Hajro’s application for citizenship. Having  
26 heard the first action, Judge Ware is familiar with Plaintiff’s citizenship

1 application. Procedural issues remain that affect the fundamental fairness of  
2 the process the government is using to adjudicate this application. For this  
3 reason, it appears likely that there will be an unduly burdensome duplication  
4 of labor and expense if this case is assigned to a different Judge of this Court.

5 Accordingly, Plaintiff respectfully requests the Court to order that the  
6 newly-filed action of C08-1350 RMW is related to the previously filed matter in  
7 C 06-7827 JW and is therefore reassigned to Judge Ware.

8  
9 Dated: March 12, 2008

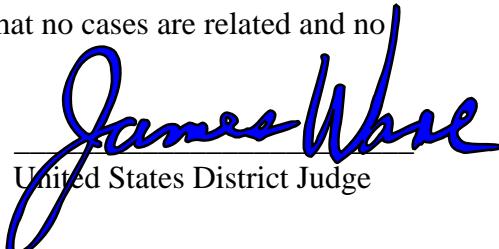
10  
11 Respectfully submitted,

12  
13 \_\_\_\_\_/s/\_\_\_\_\_  
14 Kip Evan Steinberg  
15 Attorney for Plaintiffs  
16  
17

18 IT IS SO ORDERED:

19 The Court has reviewed the motion and determined that no cases are related and no  
20 reassessments shall occur.

21 Dated: March 21, 2008

22  
23  
24  
25  
26  
27  
28   
United States District Judge